

AS

Notice of Allowability	Application No.	Applicant(s)	
	10/624,232	TOKARSKY ET AL.	
	Examiner	Art Unit	
	N Edwards	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to filing of 7/21/2003.
2. The allowed claim(s) is/are 41-43(renumbered as claims 1-3).
3. The drawings filed on 21 July 2003 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

N Edwards
Examiner
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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to a process for making a filament, classified in class 264, subclass 172.1+.
 - II. Claims 7, drawn to a spinneret, classified in class 425, subclass various.
 - III. Claims 13-22, drawn to a process for making a yarn, classified in class 28, subclass various.
 - IV. Claims 23 and 24, drawn to articles, classified in class 43 or 428 or 57 or 132 or 604, subclass various.

 - V. Claims 25-26, drawn to a yarn, classified in class 57, subclass various.
 - VI. Claims 27 and 28, drawn to netting of yarn, classified in class 442, subclass various.
 - VII. Claims 29-31, drawn to a composite, classified in class 428, subclass 292.1+.
 - VIII. Claim 32, drawn to electrical cable, classified in class 174, subclass various.
 - IX. Claims 33-34, drawn to a structure, classified in class 135 or 52, or 280 subclass various.
 - X. Claims 35, drawn to Luggage, classified in class 190, subclass various.
 - XI. Claims 36,37,45, drawn to a medical fabric and sail cloth classified in class 604 or 606 or 114, subclass various.
 - XII. Claim 38, drawn to a process of sterilizing, classified in class 422, subclass various.

XIII. Claims 39-40, drawn to a process of suppressing fire, classified in class 252 subclass 608.

XIIII. Claims 41-43, drawn to a yarn, classified in class 428, subclass 364

XV. Claim 44, drawn to a yarn, classified in class 428, subclass 357.

2. The inventions are distinct, each from the other because:

3. Inventions group V and group VI are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP §

806.04(h)). In the instant case, the intermediate product is deemed to be useful as a entangled yarn or combined yarn and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. Inventions group III and group V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product

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or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different method such as spinning, extruding, drawing, wrapping, and winding.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. During a telephone conversation with Edwin Tocker on 4/21/2004 a provisional election was made with traverse to prosecute the invention of group X^{IIII}, claims 41-43. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-40, 44 and 45 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

EXAMINER'S AMENDMENT

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Edwin Tocker on 4/27/2004.

IN THE CLAIMS:

Claims 1-40, 44, and 45 have been canceled.

9. The following is an examiner's statement of reasons for allowance: there is no teaching or suggestion of a yarn having the tenacity and tensile quality as recited by claim 41 (renumbered as claim 1).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N Edwards whose telephone number is 703-308-0767. The examiner can normally be reached on Monday from 6:00am to 2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly, can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



N. Edwards
Examiner
Art Unit 1774
N. EDWARDS
PRIMARY EXAMINER